

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Hind et al.**

Serial No. **10/631,878**

Filed: **July 31, 2003**

For: **Self Contained and Automated
eLibrary Method of Analyzing
Consumer Preferences**

§
§
§
§
§
§
§

Group Art Unit: **2166**

Examiner: **Navneet K. Ahluwalia**

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

36736
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Reinstatement of Appeal, filed in this case on December 10, 2007.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0461. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0461.

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation of Armonk, New York.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-31

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: 5
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 1-4 and 6-31
4. Claims allowed: none
5. Claims rejected: 1-4 and 6-31
6. Claims objected to: none

C. CLAIMS ON APPEAL

The claims on appeal are: 1-4 and 6-31

STATUS OF AMENDMENTS

No amendment after final rejection was filed for this case.

SUMMARY OF CLAIMED SUBJECT MATTER

Generally provided by the present claims is a system and method for reporting a user's behavior and patterns when engaged in use of an electronic consumable. In a preferred embodiment, an electronic consumable such as an electronic book or library includes detectors for collecting information from a user. This information is analyzed to identify the user's interests in and reactions to the electronic consumable.

A. CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a system for collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The system includes an electronic consumable displayed using an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302). The apparatus has an input device and a sensor (Figure 2, reference numeral 206). The sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408).

B. CLAIM 9 - INDEPENDENT

The subject matter of claim 9 is directed to a system for collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The system includes an apparatus capable of displaying an electronic consumable (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302), an electronic consumable comprising documents and objects, wherein the documents and objects include instructions for automatically monitoring and reporting user behavior (Specification, p. 7, ll. 5-12; p. 6, l. 21 through p. 7, l. 24; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302), and wherein a user action triggers the monitoring and reporting of the user behavior (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408).

C. CLAIM 19 - INDEPENDENT

The subject matter of claim 19 is directed to a method of collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The method includes storing an electronic consumable on an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302; and Figure 4, reference numeral 404), the apparatus providing means for displaying the electronic consumable (Figure 2, reference numeral 202) in response to a user action (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408), collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17), and reporting the information across a network (Specification, p. 9, ll. 6-14).

D. CLAIM 25 - INDEPENDENT

The subject matter of claim 25 is directed to a system for collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The system includes a means for storing an electronic consumable on an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302), the apparatus providing a means for displaying the electronic consumable (Figure 2, reference numeral 202), in response to a user action (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408), a means for collecting information about the user (Figure 2, reference numeral 206), wherein the information is collected according to embedded code in an object of the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17), and a means for reporting the information across a network (Specification, p. 9, ll. 6-14).

E. CLAIM 31 - INDEPENDENT

The subject matter of claim 31 is directed to a computer program product in a computer readable medium (Specification, p. 6, line 21 through p. 7, l. 4; p. 14, ll. 9-27; and Figure 2). The computer program product includes first instructions for storing an electronic consumable on an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; Figure 3, reference numerals 300 and 302; and Figure 4, reference numeral 402), the apparatus providing means for

displaying the electronic consumable (Figure 2, reference numeral 202), in response to a user action (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408), second instructions for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17), and a third instructions for reporting the information across a network (Specification, p. 9, ll. 6-14), wherein the information includes biological information about the user (Specification, p. 6, ll. 21-30 and p. 10, ll. 3-17).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to review on appeal are as follows:

1. Whether the Examiner erroneously rejected Claims 1-4 and 6-31 as being obvious over James R Mault (US 2001/0044588 A1, hereinafter '*Mault*') in view of Matthew et al. (US 2002/0009119 A1, hereinafter '*Matthew*') under 35 U.S.C. § 103.

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1-4 and 6-31)

Claims 1-4 and 6-31 stand rejected under 35 U.S.C. § 103 as being obvious over James R Mault (US 2001/0044588 A1, hereinafter '*Mault*') in view of Matthew et al. (US 2002/0009119 A1, hereinafter '*Matthew*').

A.1. Claims 1-4 and 8

One of the primary issues with respect to rejection of Claim 1 is (1) whether *Mault* teaches an *electronic consumable displayed on an apparatus* having an input device and a sensor, as alleged by the Examiner. The Examiner states that *Mault* teaches an electronic consumable at *Mault*, par. 0042. Appellants urge clear error in such assertion, as there *Mault* states:

[0042] The computing device 20 is adapted to send a data stream over the communication network 30, which is preferably the Internet. The computing device can be (but is not limited to) a personal digital assistant (PDA) such as a Palm Pilot, portable computer, desk-top computer, wireless phone, interactive television component (e.g. set-top box, cable box, web-TV box, satellite box, etc.), electronic organizer, e-book, or a multi-functional device. In some embodiments, a PCMCIA (Personal Computer Memory Card International Association) card acts as an interface between the sensor 10 and the computing device 20. Schematics of PCMCIA interfaces, which can be advantageously used in embodiments of the present invention, are described in U.S. Pat. Nos. 6,159,147 and 5,827,179 to Lichter et al., herein incorporated by reference. The computing device may contain a transceiver card, so that wireless transmissions from one or sensor system can be detected. The sensor 10 and the computing device 20 can be an integrated device. For example, a PDA with a temperature monitoring accessory can be used.

As can be seen, while this cited passage describes a computing device, this cited passage does not teach or otherwise suggest the display of anything – and therefore this cited passage cannot be reasonably construed as teaching the *display of an electronic consumable*, as expressly recited in Claim 1.

Another issue with respect to the rejection of Claim 1 is whether any of the cited

references teach or suggest that a sensor is activated by a user manipulating an object of the electronic consumable. Claim 1 expressly recites “wherein the sensor is activated by a user action by *manipulating an object of the electronic consumable* to collect information about the user’s behavior as the user consumes the electronic consumable”. In rejecting this aspect of Claim 1, the Examiner states “In paragraph 15 of *Mault* there is an illustration of a temperature sensor that is or could be inserted into an orifice, this is an action possibly made by the user, therefore user manipulated the object and activated the sensor,” (*Final Office Action* dated November 16, 2007, page 3). However, the Examiner’s rejection is clearly erroneous because *the temperature sensor is not an object of the electronic consumable*. *Mault* does not teach manipulating *an object of the electronic consumable* (which is displayed) to activate the sensor because the temperature sensor is an external device and is not *an object of an electronic consumable*.

In addition, *Matthew* also does not teach activating a sensor by a user manipulating an object of the electronic consumable. The Examiner cites to *Matthew* for teaching a user activated sensor. However, *Matthew* does not teach *an electronic consumable* and further fails to teach manipulating *an object of the electronic consumable* to activate the sensor. Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 1, and therefore a prima facie case of obviousness has not been properly established. Thus, it is shown that Claim 1 has been erroneously rejected under 35 U.S.C. § 103 due to this prima facie deficiency¹.

Still further with respect to Claim 1, another issue with respect to the rejection of such claim pertains to whether any of the cited references teach or suggest that a sensor is activated by a user action by manipulating an object of the electronic consumable, *where embedded code of the object causes the information to be recorded*. As can be seen, per this aspect of Claim 1, there are (i) an electronic consumable, (ii) an object of the electronic consumable, (iii) a sensor, and (iv) embedded code of the object (of the electronic consumable). In rejecting this aspect of Claim 1, the Examiner cites *Mault*’s teachings at paragraphs 7 and 15 as teaching all four of

¹ To establish prima facie obviousness of a claimed invention, *all of the claim limitations must be taught or suggested by the prior art*. MPEP 2143.03 (emphasis added by Appellants). See also, *In re Royka*, 490 F.2d 580 (C.C.P.A. 1974). If the examiner fails to establish a prima facie case, *the rejection is improper and will be overturned*. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.

these claimed elements (items (i)-(iv) listed above). Appellants urge clear error, as *Mault*'s paragraph 7 merely describes a PDA and a temperature sensor. It appears the Examiner is equating this temperature sensor with the claimed sensor, but there is no additional teaching of items (i), (ii) or (iv). Nor does the cited paragraph 15 overcome such teaching deficiency. This cited paragraph further describes details associated with the temperature sensor described by *Mault*'s paragraph 7. This cited passage similarly does not teach or suggest missing items (i), (ii) or (iv) – specifically, this cited passage does not teach or otherwise suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable). Instead, this cited passage describes a sensor. Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 1, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 1 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.2. Claim 6

Appellants initially urge error in the rejection of Claim 6 for reasons given above with respect to Claim 1, of which Claim 6 depends upon.

Further with respect to Claim 6, such claim recites “wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function”. As can be seen, Claim 6 is directed to particular actions associated with the object of the electronic consumable – and in particular that this object can only be stored in containers that allow the embedded code of the object to function. As previously described above, none of the cited references teach or suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable), and therefore it similarly follows that the features of Claim 6 are not taught or suggested by the cited references as the features of Claim 6 pertain to these missing claimed elements of Claim 1. In rejecting Claim 6, the Examiner merely states that all of the features of Claim 6 are taught by *Mault* paragraphs 39, 42 and 59, without providing any insight or analysis as to how these paragraphs are being interpreted to read on the features of Claim 6.

1988) (emphasis added by Appellants).

Appellants urge that *Mault*'s paragraph 39 describes various types of sensors that can be used by the *Mault* system, and such paragraph does not teach/suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable), and therefore it similarly follows that the features of Claim 6 are not taught or suggested by this cited paragraph as the features of Claim 6 pertain to these missing claimed elements of Claim 1.

Appellants urge that *Mault*'s paragraph 42 describes a computing device, and such paragraph does not teach/suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable), and therefore it similarly follows that the features of Claim 6 are not taught or suggested by this cited paragraph as the features of Claim 6 pertain to these missing claimed elements of Claim 1.

Appellants urge that *Mault*'s paragraph 59 describes a system which combines a sensed temperature signal with entertainment content such that a caregiver may monitor the sensed temperature while viewing entertainment programming. This paragraph does not teach/suggest embedded code of the object of the electronic consumable, and therefore it similarly follows that the features of Claim 6 are not taught or suggested by this cited paragraph as the features of Claim 6 pertain to this missing claimed element of Claim 1.

Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 6, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 6 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.3. Claim 7

Appellants initially urge error in the rejection of Claim 7 for reasons given above with respect to Claim 1, of which Claim 7 depends upon.

Further with respect to Claim 7, such claim recites "wherein the information is analyzed using data mining techniques". In rejecting this aspect of Claim 7, the Examiner states that *Mault* teaches the claimed data mining techniques at *Mault* paragraph 7 and 14. Appellants urge clear error, as *Mault*'s paragraph 7 describes the monitoring and recording of data using a temperature sensor, but does not describe any type of data analysis with respect to the

monitored/recorded data. Nor does the cited passage at *Mault*'s paragraph 15 overcome such teaching/suggestion deficiency. There, *Mault* describes a sensor, a computing device and a server system. The only data manipulation described by this cited paragraph is that the sensor system may average data, compensate for errors or otherwise process data before transmission to the computing device. There is no mention of any type of data mining techniques being used in the analysis of any information. Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 7, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 7 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.4. Claims 9, 12-14 and 18

With respect to Claim 9, such claim recites “an electronic consumable comprising documents and objects; *wherein the documents and objects include instructions for automatically monitoring and reporting user behavior*”. In rejecting this aspect of Claim 9, the Examiner states that all of these claimed features are taught by *Mault* at paragraphs 7 and 15. It is urged that *Mault*'s paragraph 7 describes an ability to monitor a temperature and does not teach or suggest (i) an electronic consumable comprising documents and objects, or (ii) documents and objects that both – **themselves** - *include instructions for automatically monitoring and reporting user behavior*, as claimed. It is further urged that *Mault*'s paragraph 15 describes a sensor, a computing device and a server system for monitoring and transmitting temperature data, and does not teach or suggest (i) an electronic consumable comprising documents and objects, or (ii) documents and objects that both – **themselves** - *include instructions for automatically monitoring and reporting user behavior*, as claimed.

Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 9, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 9 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.5. Claim 10

Appellants initially urge error in the rejection of Claim 10 for reasons given above with

respect to Claim 9, of which Claim 10 depends upon.

Further with respect to Claim 10, such claim recites “wherein the user behavior reported comprises how long the user looked at a first page of the document”. In rejecting this time-that-a-user-looked feature, the Examiner cited *Mault*’s description at paragraphs 15, 42 and 78 as teaching of the features of Claim 10. Appellants urge error in such assertion. *Mault*’s paragraph 15 describes sensing a person’s temperature using a sensor, and does not describe a user looking at a document and therefore cannot teach reporting how long a user looked at a first page of a document. *Mault*’s paragraph 42 describes a computing device that is able to transmit data, and does not describe a user looking at a document and therefore cannot teach reporting how long a user looked at a first page of a document. *Mault*’s paragraph 78 describes that monitoring of a child for purposes of detecting a respiratory failure or Sudden Infant Death Syndrome, and does not describe a user looking at a document and therefore cannot teach reporting how long a user looked at a first page of a document.

Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 10, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 10 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.6. Claim 11

Appellants initially urge error in the rejection of Claim 11 for reasons given above with respect to Claim 9, of which Claim 11 depends upon.

Further with respect to Claim 11, such claim recites “wherein the user behavior reported comprises the time between the user opening an object and closing the object”. In rejecting this user opening/closing an object feature, the Examiner cited *Mault*’s description at paragraphs 15, 42 and 78 as teaching of the features of Claim 10. Appellants urge error in such assertion. *Mault*’s paragraph 15 describes sensing a person’s temperature using a sensor, and does not describe a user opening/closing an object and therefore cannot teach reporting the time between a user opening and closing an object. *Mault*’s paragraph 42 describes a computing device that is able to transmit data, and does not describe a user opening/closing an object and therefore cannot teach reporting the time between a user opening and closing an object. *Mault*’s paragraph 78

describes that monitoring of a child for purposes of detecting a respiratory failure or Sudden Infant Death Syndrome, and does not describe a user opening/closing an object and therefore cannot teach reporting the time between a user opening and closing an object.

Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 11, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 11 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.7. Claim 15

Appellants initially urge error in the rejection of Claim 15 for reasons given above with respect to Claim 9, of which Claim 15 depends upon.

Further with respect to Claim 15, such claim recites “wherein the facial expressions are classified according to a facial expression recognition algorithm”. In rejecting this classification, the Examiner cited *Mault*’s description at paragraphs 15, 42 and 78 as teaching of the features of Claim 10. Appellants urge error in such assertion. Applicants have already characterized these cited passages above, and none of them teach or suggest any type of facial expression recognition algorithm, and therefore cannot teach classifying facial expressions according to such a (missing) facial expression recognition algorithm

Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 15, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 15 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.8. Claim 16

Appellants initially urge error in the rejection of Claim 16 for reasons given above with respect to Claim 1, of which Claim 9 depends upon.

Further with respect to Claim 16, such claim recites “wherein the user behavior is analyzed using data mining techniques”. In rejecting this aspect of Claim 16, the Examiner states that *Mault* teaches the claimed data mining techniques at *Mault* paragraph 7 and 14. Appellants urge clear error, as *Mault*’s paragraph 7 describes the monitoring and recording of

data using a temperature sensor, but does not describe any type of data analysis with respect to the monitored/recorded data. Nor does the cited passage at *Mault*'s paragraph 15 overcome such teaching/suggestion deficiency. There, *Mault* describes a sensor, a computing device and a server system. The only data manipulation described by this cited paragraph is that the sensor system may average data, compensate for errors or otherwise process data before transmission to the computing device. There is no mention of any type of data mining techniques being used in the analysis of any information. Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 16, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 16 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.9. Claim 17

Appellants initially urge error in the rejection of Claim 17 for reasons given above with respect to Claim 9, of which Claim 17 depends upon.

Further with respect to Claim 17, such claim recites “wherein the objects can only be stored in containers that allow embedded code of the object to function”. As can be seen, Claim 17 is directed to particular actions associated with the object of the electronic consumable – and in particular that this object can only be stored in containers that allow the embedded code of the object to function. As previously described above, none of the cited references teach or suggest embedded code of the object of the electronic consumable, and therefore it similarly follows that the features of Claim 17 are not taught or suggested by the cited references as the features of Claim 17 pertain to these missing claimed elements pertaining to embedded code. In rejecting Claim 17, the Examiner merely states that all of the features of Claim 17 are taught by *Mault* paragraphs 39, 42 and 59, without providing any insight or analysis as to how these paragraphs are being interpreted to read on the features of Claim 17.

Appellants urge that *Mault*'s paragraph 39 describes various types of sensors that can be used by the *Mault* system, and such paragraph does not teach/suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable), and therefore it similarly follows that the features of Claim 17 are not taught or suggested by this cited paragraph as the features of Claim 17 pertain to these

missing claimed elements.

Appellants urge that *Mault*'s paragraph 42 describes a computing device, and such paragraph does not teach/suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable), and therefore it similarly follows that the features of Claim 17 are not taught or suggested by this cited paragraph as the features of Claim 17 pertain to these missing claimed elements.

Appellants urge that *Mault*'s paragraph 59 describes a system which combines a sensed temperature signal with entertainment content such that a caregiver may monitor the sensed temperature while viewing entertainment programming. This paragraph does not teach/suggest embedded code of the object of the electronic consumable, and therefore it similarly follows that the features of Claim 17 are not taught or suggested by this cited paragraph as the features of Claim 17 pertain to this missing claimed element.

Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 17, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 17 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.10. Claims 19, 21-23, 25, 27-29 and 31

With respect to Claim 19, such claim recites “storing an electronic consumable on an apparatus, the apparatus providing *means for displaying the electronic consumable*”. In rejecting this aspect of Claim 19, the Examiner states that *Mault* teaches storing and displaying of an electronic consumable at paragraphs 2, 14 and 42. For similar reasons to those described above with respect to Claim 1, none of these cited *Mault* passages at paragraphs 2, 14 and 42 describe an electronic consumable, or the storing/means for displaying such (missing) electronic consumable. Thus, it is shown that Claim 19 has been erroneously rejected under 35 U.S.C. § 103 due to this prima facie deficiency.

Claim 19 further recites “in response to a user action, collecting information about the user, wherein *the information is collected according to embedded code in an object of the electronic consumable*”. The Examiner alleges this embedded code feature is taught by *Mault* at paragraphs 7 and 15. Appellants urge clear error, as *Mault*'s paragraph 7 merely describes a

PDA and a temperature sensor. There is no additional teaching of (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable). Nor does the cited paragraph 15 overcome such teaching deficiency. This cited paragraph further describes details associated with the temperature sensor described by *Mault's* paragraph 7. This cited passage similarly does not teach or suggest (i) an electronic consumable, (ii) an object of the electronic consumable, or (iv) embedded code of the object (of the electronic consumable). Instead, this cited passage describes a sensor. Accordingly, the combination of *Mault* and *Matthew* does not teach or suggest all the features of Claim 19, and therefore a prima facie case of obviousness has not been properly established. Thus, it is further shown that Claim 19 has been erroneously rejected under 35 U.S.C. § 103 due to this additional prima facie deficiency.

A.11. Claims 20 and 26

Appellants initially urge error in the rejection of Claim 20 (and similarly for Claim 26) for reasons given above with respect to Claim 19, of which Claim 20 depends upon.

Appellants further urge error in the rejection of Claim 20 (and similarly for Claim 26) for similar reasons to those given above with respect to Claim 7.

A.12. Claims 24 and 30

Appellants initially urge error in the rejection of Claim 24 (and similarly for Claim 30) for reasons given above with respect to Claim 19, of which Claim 24 depends upon.

Appellants further urge error in the rejection of Claim 24 (and similarly for Claim 30) for similar reasons to those given above with respect to Claim 6.

Appellants have thus shown numerous and substantial errors in the Examiner's final rejection of all pending claims in that the Examiner has not properly established a prima facie showing of obviousness with respect to all pending claims. Accordingly, Appellants respectfully request that the Board reverse the final rejection of all pending claims due to such erroneous rejection.

/Wayne P. Bailey/
Wayne P. Bailey
Reg. No. 34,289
YEE & ASSOCIATES, P.C.
PO Box 802333
Dallas, TX 75380
(972) 385-8777

CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A system for collecting information about a user of an electronic consumable, comprising:
an electronic consumable displayed on an apparatus, the apparatus having an input device and a sensor;

wherein the sensor is activated by a user action by manipulating an object of the electronic consumable to collect information about the user's behavior as the user consumes the electronic consumable, and wherein embedded code of the object causes the information to be recorded in response to the user manipulating the object.
2. The system of claim 1, wherein the sensor is a device chosen from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor.
3. The system of claim 1, wherein the information collected is reported to a remote location.
4. The system of claim 1, wherein by activating the input device, the user causes the information to be collected.
6. The system of claim 1, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.
7. The system of claim 1, wherein the information is analyzed using data mining techniques.

8. The system of claim 1, wherein the user can configure the collection and reporting of information.
9. A system for collecting information about a user of an electronic consumable, comprising:
 - an apparatus capable of displaying an electronic consumable;
 - an electronic consumable comprising documents and objects;
 - wherein the documents and objects include instructions for automatically monitoring and reporting user behavior; and
 - wherein a user action triggers the monitoring and reporting of the user behavior.
10. The system of claim 9, wherein the user behavior reported comprises how long the user looked at a first page of the document.
11. The system of claim 9, wherein the user behavior reported comprises the time between the user opening an object and closing the object.
12. The system of claim 9, further comprising a sensor as part of the apparatus, wherein the sensor collects biological information about the user.
13. The system of claim 12, wherein the sensor is an infra red sensor, and wherein the biological information comprises the body temperature of the user as determined from the sensor.

14. The system of claim 12, wherein the sensor is a camera, and wherein the biological information comprises facial expressions of the user.
15. The system of claim 14, wherein the facial expressions are classified according to a facial expression recognition algorithm.
16. The system of claim 9, wherein the user behavior is analyzed using data mining techniques.
17. The system of claim 9, wherein the objects can only be stored in containers that allow embedded code of the object to function.
18. The system of claim 9, wherein the user can configure the collection and reporting of information by the system.
19. A method of collecting information about a user of an electronic consumable, comprising the steps of:
 - storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;
 - in response to a user action, collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable; and
 - reporting the information across a network.

20. The method of claim 19, wherein the reported information is analyzed using data mining techniques.
21. The method of claim 19, wherein the information is collected by sensors of the apparatus.
22. The method of claim 21, wherein the sensors are selected from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor.
23. The method of claim 21, wherein the information includes biological information about the user.
24. The method of claim 19, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.
25. A system for collecting information about a user of an electronic consumable, comprising:
 - means for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;
 - in response to a user action, means for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable;
 - means for reporting the information across a network.
26. The system of claim 25, wherein the reported information is analyzed using data mining techniques.

27. The system of claim 25, wherein the information is collected by sensors of the apparatus.
28. The system of claim 27, wherein the sensors are selected from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor.
29. The system of claim 27, wherein the information includes biological information about the user.
30. The system of claim 25, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.
31. A computer program product in a computer recordable-type medium, comprising the computer implemented steps of:
- first instructions for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;
 - in response to a user action, second instructions for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable;
 - third instructions for reporting the information across a network;
- wherein the information includes biological information about the user.

EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.